

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL DEPOSIT INS. CORP.,

Plaintiff,

vs.

COREY L. JOHNSON, et al.,

Defendants.

Case No. 2:12-cv-00209-KJD-PAL

ORDER

(Mtn to Seal - Dkt. #186)

This matter is before the court on Plaintiff Federal Deposit Insurance Company, as Receiver's ("FDIC-R") Motion for Leave to File Under Seal Defendant Corey L. Johnson's Employment File.

Although the Motion for Leave to File Under Seal does not specify, it appears that the FDIC-R seeks to file Johnson's employment file under seal in connection with their Response (Dkt. #185) to Johnson's Motion for Summary Judgment (Dkt. #162). The court has considered the Motion.

The FDIC-R seeks an Order allowing it to file Mr. Johnson's employee record file under seal because it "contains salary and other information." Motion at 2:9-10. As set forth in the court's Order (Dkt. #61) entered August 14, 2012, the court approved the parties' blanket protective order to facilitate discovery exchanges, and the court "has not found that any specific documents are secret or confidential." Order at 1:26-28. Additionally, the Order reminded counsel of their obligation under *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006), to set forth compelling reasons sufficient to overcome the presumption of public access to maintain the secrecy of documents attached to dispositive motions. *Id.* at 2:5-7. The Motion represents that the FDIC-R "anticipates conferring with counsel for Johnson in order to determine whether Johnson want[s] to assert confidentiality as to these documents or withdraw the motion." Motion at 2:12-14. The court appreciates counsel filed this Motion to comply with its obligations to keep documents designated as

1 confidential out of the public record. The burden is on the party designating the documents confidential
2 to establish they should be filed under seal. The FDIC-R's Motion does not make the particularized
3 showing of compelling reasons required by *Kamakana* to keep the employment record file submitted in
4 connection with the Response under seal. Moreover, the FDIC-R has not complied with Local Rule 10-
5 5(b) and filed the documents under seal so the court could evaluate them. *See* LR 10-5(b) (requiring
6 parties to file documents under seal in accordance with the court's electronic filing procedures).

7 For these reasons,

8 **IT IS ORDERED:**

- 9 1. Plaintiff FDIC-R's Motion for Leave to File Under Seal (Dkt. #186) is DENIED
10 WITHOUT PREJUDICE.
- 11 2. Defendant Corey L. Johnson shall have until **April 25, 2014**, to file a memorandum of
12 points and authorities and any supporting declaration or affidavit to establish compelling
13 reasons why the FDIC-R's Response (Dkt. #185), should remain under seal.
- 14 3. The Response shall remain sealed until April 25, 2014. If Defendant Johnson fails to
15 timely comply with this order the Clerk of the Court is directed to unseal the Response
16 to make it available on the public docket.

17 Dated this 11th day of April, 2014.

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21 PEGGY A. LEEN
22 UNITED STATES MAGISTRATE JUDGE
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